

REMARKS/ARGUMENTS

Upon entry of this Amendment, which amends claims 1-3 and 7, adds new claims 10-17 claims 1-17 will be pending. In the Office Action, the disclosure was objected to because of informalities, claims 2 and 3 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention; claims 1 and 4-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Teglovic et al. (U.S. Patent No. 5, 692,030, hereinafter "Teglovic") in view of Berg (U.S. Patent No. 5,872,911); and claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Teglovic and Berg in view of Bhagavath et al. (U.S. Patent No. 6,374,288, hereinafter "Bhagavath"). Applicants respectfully traverse the rejections.

Objections to the Specification

Applicants have amended the specification to include the cross-references that were not previously provided.

Applicants have also amended the reference character 230 as used to refer to public switch on page 6, lines 1 and 2 to be "public switch 232". Applicants respectfully request withdrawal of the objections to the disclosure.

Section 112 Rejections

Claims 2 and 3 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Specifically, the rejection states that claim 2 and 3 recite the limitation "the video and data network", and that there is insufficient antecedent basis for this limitation. In response, Applicants have deleted "video and data" from the claims, such that the claims now recite "the network". Applicants respectfully submit that claims 2 and 3 now fully comply with the requirements of section 112.

Section 103 Rejections

Claim 1 was rejected under 35 U.S.C. § 103 as being unpatentable over Teglovic in view of Berg. Applicants respectfully traverse the rejection.

Teglovic teaches a system for exchanging information between a long distance carrier and a telco site. Teglovic specifically states that "when a customer reports a trouble, a technician opens a trouble ticket in the long distance carrier's trouble administrative system." *See Teglovic*, col. 2, lines 22-25. Accordingly, Teglovic teaches creating a trouble ticket after a customer reports the trouble.

Berg discloses a system impact analysis that provides information on network failures. The system uses the number of calls to assess faults. For example, the system expects to service 37 calls during the period and the resource capacity is only 26 calls, then it is predicted that 11 calls will not be serviced. *See Berg*, col. 7, lines 40-48. Accordingly, the actual number of calls and predicted number of calls are used to determine a fault. Berg refers to this approach as a "customer oriented view."

Teglovic and Berg Do Not Disclose or Suggest Every Element of Claim 1

Applicants submit that Teglovic and Berg, either alone or in combination, fail to disclose or suggest:

- creating a repair ticket;
- correlating one or more customers affected by the fault to the repair ticket; and
- communicating the repair ticket and the one or more customers affected by the fault to the customer service system before a call is received by the one or more customers affected by the fault.

Applicants submit that Teglovic and Berg, either in alone or in combination, do not disclose or suggest creating a repair ticket and communicating the repair ticket to the customer service system before a call is received from customers affected by the fault. Teglovic discloses creating a trouble ticket after receiving a call from a customer. Berg discloses analyzing call traffic to determine the service impact of a fault. Berg does not disclose or suggest creating a trouble ticket and communicating the trouble ticket to a customer service system before receiving a call from one or more customers related to the fault. There is no mention in Berg of communicating a repair ticket to a customer service system. The rejection

states that Berg teaches a "customer-oriented view" on page 5, number 17. However, this customer-oriented view is not a customer service system; rather, the customer-oriented view is the analysis in Berg that analyzes customer call volume in order to determine possible service impact. Applicants submit that the customer-oriented view that Berg refers to is using the number of calls or call traffic that is expected to be made through the network, and does not disclose or suggest communicating a repair ticket to a customer service system before a customer calls.

The combination of Berg and Teglovic may disclose analyzing faults and creating a trouble ticket after a customer calls to report trouble, but does not disclose or suggest creating a repair ticket, correlating the repair ticket, and communicating the repair ticket to a customer service system before a call is received by one or more customers affected by the fault.

It Would Not Have Been Obvious to Combine Teglovic and Berg

The rejection states that it would have been obvious to combine the teaching of Berg and Teglovic to correlate one or more customers with a repair ticket to communicate the repair ticket to customer service prior to receiving a call from one or more customers because they deal with detecting and assessing faults in telecommunications networks. Furthermore, the rejection states that the teaching of Berg is to determine the affected customers prior to receiving a customer call would allow service personnel to address faults in a customer-oriented view resulting in addressing problems more efficiently from the customer's perspective.

Applicants submit that the Examiner's reasons for combining the teaching of Berg and Teglovic is flawed. First, Teglovic specifically teaches away from creating a repair ticket and communicating the repair ticket to a customer service system before a call is received from one or more customers affected by the fault. Teglovic specifically states that a trouble ticket is opened when a customer reports a trouble, and not before the customer reports the trouble. Accordingly, Applicants submit that "it is improper to combine references where the references teach away from their combination." *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

Applicants also submit that the obviousness rejections in the Office Action are based on improper hindsight. As noted by MPEP 2141.01:

It is difficult but necessary that the decisionmaker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made (often as here many years), to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art." W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). (emphasis added.)

In order to avoid improper hindsight, the Examiner must look at only the cited references, without looking at the Applicants' disclosure or claims, to see if one skilled in the art would have combined the references to arrive at the invention. Here, one would not have combined the cited references unless they had had the benefit of Applicants' disclosure first. The Examiner uses improper hindsight to combine Berg with Teglovic. Teglovic is clearly directed towards creating a trouble ticket after a customer call is received. Berg makes no mention of creating a trouble ticket before a customer is called. The Examiner states on page 5, par. 16 "Berg teaches detecting faults and correlating the fault data to predict which customers will be affected by the fault without requiring a customer call". The Examiner then states in par. 17 "[i]t would have been obvious to one of ordinary skill in this art at the time the invention was made to combine the teaching of Berg and Teglovic to correlate one or more customers with a repair ticket and to communicate the repair ticket to customer service prior to receiving a call from one or more customers because they both deal with detecting and assessing faults in telecommunications networks." The Examiner's reasoning for combining the references is not based on the references but rather the Applicants disclosure. Teglovic teaches away from creating a trouble ticket before receiving a call. Further, Berg does not disclose or suggest creating a trouble ticket or communicating it to a customer service system. The Examiner's motivation in par. 17 to combine the references is based on the Applicants' disclosure, and not the references.

Advantages of Embodiments of the Present Invention

By creating a repair ticket and communicating that repair ticket to the customer service system before a customer's call is received, many advantages are provided by embodiments of the present invention. For example, when a customer calls the customer service system because of a fault, the customer service agent can see that the customer has been correlated to a repair ticket for the fault and can tell the customer that the repair ticket has been created and the repair is being serviced. Accordingly, the customer can be assured that the service problem is being addressed. Further, multiple customers may be affected by a fault, and thus multiple calls may be received by the customer service system. In this case, because the repair ticket has been created and the customers have been correlated, the calls may be short and all customers may be assured that the problem is being addressed. Using the system of Teglovic, the trouble ticket will be created after a customer reports a trouble and if multiple customers call in at the same time, multiple trouble tickets may be created. Thus, Teglovic does not provide the advantages provided by embodiments of the present invention.

Accordingly, Applicants respectfully request withdrawal of rejection of claim 1. Claims 2-8 depend from claim 1 and thus derive patentability at least therefrom.

Applicants submit that claim 9 should be allowable for at least a similar rationale as discussed with respect to claim 1.

Applicants also submit that new claims 10-17 are allowable over the cited references.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 09/921,275

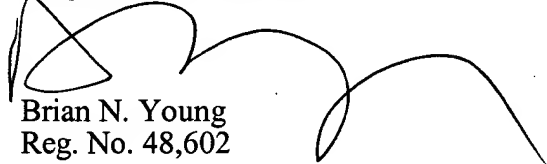
Amdt. dated February 15, 2005

Reply to Office Action of November 15, 2004

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Brian N. Young
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
BNY:jtc
60386425 v1